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E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

October Term, 1970

No. 1057

In the Matter of

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY,
Debtor.

BONDHOLDERS PROTECTIVE COMMITTEE (of the 3¼% GENERAL MORTGAGE BONDS OF THE CENTRAL RAILROAD COMPANY),
Appellant.

C. A. No. 18,549

REPLY BRIEF OF THE 3¼% MORTGAGE BONDHOLDERS PROTECTIVE COMMITTEE, RESPONDENT

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BONDHOLDERS PROTECTIVE COMMITTEE (of the 3¼% GENERAL MORTGAGE BONDS OF THE CENTRAL RAILROAD COMPANY),
Appellant.

C. A. No. 12,549

REPLY BRIEF OF THE 3¼% MORTGAGE BONDHOLDERS PROTECTIVE COMMITTEE, RESPONDENT

Questions Presented

1. Is there any question properly before this Court for its determination?

2. Should Chapter X and Section 77 of the Bankruptcy Act be read in *pari materia* with each other?

3. Did the District Court abuse its discretion in denying the Appellant's petition to intervene?

Statement of Facts

We make no comments on the statement of facts because we believe they are immaterial.

Reasons for Denying the Writ

1. There is no question before the Court for its determination.

The Appellant ("Marx Committee") appealed to the Court of Appeals only from the District Court's order denying its application to intervene. It did not appeal from the order granting the application of the Respondent ("Salzberg Committee").

The Court of Appeals recognized this and its Per Curiam opinion said that it had "serious doubts concerning what matters are properly raised by such notice of appeal * * *" (A(6a)).

Not one of the questions presented by the Appellant in its Petition relates to the correctness of the order of the District Court denying Appellant's application or the judgment of affirmance of the Court of Appeals.

The Appellant devotes its main argument to the qualifications of Respondent, Salzberg Committee, yet it has not appealed from the order allowing the Respondent to intervene.

Since the Appellant has limited its appeal to the denial of its application to intervene, but has not presented that

question to this court in its petition, there is nothing for this Court to determine. All of Appellant's arguments concerning the Salzberg Committee are irrelevant.

2. Chapter X and Section 77 of the Bankruptcy Act are not to be read in *pari materia* with each other.

Without withdrawing the previous argument, we contend that the opinions of the District Court and the Court of Appeals have adequately disposed of Appellant's argument on this point. Respondent relies on those opinions and respectfully submits that no further argument is necessary.

3. The District Court did not abuse its discretion in denying the Appellant's petition to intervene.

Respondent does not withdraw its argument under Point 1 above that there is no question for this Court to determine, but it submits that the opinions of both the District Court (A 2a-4a, incl.) and the Court of Appeals (A 5a-7a, incl.) point out that the record of the hearing before the Interstate Commerce Commission, as well as the record in this proceeding justified the denial of Appellant's application (which, as we have pointed out, is the only part of the District Court's order from which Appellant appealed).

The District Court stated (A 3a):

> "* * *. Despite this difference, the expertise of the Interstate Commerce Commission should not be overlooked in the evaluation of the Marx and Salzberg Committees in connection with their applications for approval to solicit authorizations from the Debtor's bondholders. The Court would be remiss if it did not

seek enlightenment from the observations and findings made by the Commission on the composition of the two Committees and the qualifications of their members."

The Court of Appeals stated that upon review of the record before the District Court it was of the opinion that the District Judge did not abuse his discretion both in granting the motion of Respondent, Salzberg Committee to intervene and denying that of Appellant; Marx Committee.

Conclusion

For the foregoing reasons the petition should be denied.

Respectfully submitted,

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Dated: December 21, 1970